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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR        | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------------|---------------------|------------------|
| 10/719,405      | 11/21/2003  | Charles Robert Kalmanek JR. | 113335CON2          | 3354             |

7590

07/01/2005

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EXAMINER

BUI, BING Q

ART UNIT

PAPER NUMBER

2642

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/719,405

Applicant(s)

KALMANEK ET AL.

Examiner

Bing Q. Bui

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 52,72-78,82,87-90,96-99 and 105-108 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 87-90,96-99 and 105-108 is/are allowed.
- 6) ☒ Claim(s) 52,72-78 and 82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's Amendment filed on 4/18/2005 has been entered. Claims 52, 82, 87, 96 and 105 have been amended. Claims 1-51, 53-71, 79-81, 83-86, 91-95 and 100-104 have been cancelled. No claims have been added. Claims 52, 72-78, 82, 87-90, 96-99 and 105-108 are still pending in this application, wherein claims 52, 72, 82, 87, 96 and 105 being independent.

### ***Allowable Subject Matter***

2. The indicated allowability of claims 52, 72-78 and 82 is withdrawn in view of the newly discovered reference(s) to Martinez (US Pat No. 5,784,438). Rejections based on the newly cited reference(s) follow.

3. Claims 87-90, 96-99 and 105-108 are allowed.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 52, 72-78 and 82 rejected under 35 U.S.C. 102(e) as being anticipated by Martinez (US Pat No. 5,784,438).

Regarding claim 52, referring to figures 1-3, Martinez teaches a method for establishing a call in a network, said network including at least one network entity (e.g., platform 14), the method comprising:

forwarding to a called party a setup message for the call that originated from a calling party (see fig. 2, steps 16-20; and col. 3, lns 31-45);

receiving a setup acknowledgement message from the called party (e.g. release signal is sent to platform 14 to indicate that the called party status being changed from off-hook to on-hook that provides possibility of availability of the called party to receive a call), said at least one entity processing at least one of said call setup message and said setup acknowledgement message in order to establish state information for said call (see fig. 3, steps 46-56; and col. 3, ln 66-col. 4, ln 20);

forwarding the received setup acknowledgement message to the calling party (see fig. 3, steps 52-58; and col. 4, lns 38-48); and

routing end-to-end signaling messages between said calling party and said called

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party without said end-to-end message being routed through said at least one network entity (see fig. 3, steps 52-69; and col. 4, lns 48-62, wherein the calls between the platform and the calling party and called party are merged at the originating switch node, not at the platform or in other words, end-to-end message is not routed through the claimed network entity);

wherein said routing is carried out only if the network received a reserve message (e.g., called party answers the call and calling party dials "1") at least one of the called party and the calling party (see col. 4, lns 48-62).

As to claims 72 and 82, they are rejected for the same reasons set forth to rejecting claim 52.

Regarding claims 73-78, note figs 1-3; and col. 3, ln 31-col. 4, ln 62).

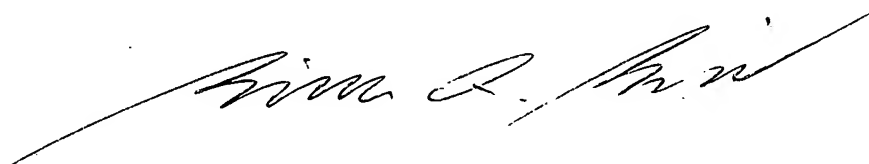
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bing Bui whose telephone number is (571) 272-7482. The examiner can normally be reached on Monday through Thursday from 7:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 and for formal communications intended for entry (please label the response ☐EXPEDITED PROCEDURE☐) or for informal or draft communications not intended for entry (please label the response "PROPOSED" or "DRAFT").

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

21 June 2005

A handwritten signature in black ink, appearing to read "Bing Q. Bui", written in a cursive style.

**BING Q. BUI**  
**PRIMARY EXAMINER**